

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 40 – 63 are pending in the application. No claim has been allowed.

By the present amendment, independent claims 40, 62, and 63 each have been amended to add the steps of “cooking, boiling and fermenting the beer wort as for a pils-type beer” and to say that the “pectin adding step and the centrifuging step are conducted so as to obtain at least one of a persistent irreversible haze and a reversible haze”. Basis for these amendments can be found at page 1, line 18; page 5, lines 15 –16; page 10, lines 30 – 36; and page 12, lines 9 – 11 of the instant application.

In the office action mailed April 2, 2003, claims 40 – 49, 62, and 63 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite; claims 40, 41, and 43 – 63 were rejected under 35 U.S.C. 103(a) as being unpatentable over New Glarus Brewing Company Apple Ale Beer or Cock’s Fine Brews in light of Ashurst Fruit Juices and Fruit Beverages in view of U.S. Patent No. 4,355,110 to Line et al.; claims 40 and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over the well known mixed drink “Snakebite” in view of Line et al.

The foregoing rejections are respectfully traversed by the present response.

The instant invention relates to a method for preparing a beer from a beer wort. The method comprises the steps of cooking, boiling and fermenting the beer wort as for a pils type beer. The method further comprises. In contrast to a pils-type beer, a step of adding pectin E440 and a step of centrifuging the wort. The pectin adding step comprises adding pectin E440 in a predetermined proportion in order to inhibit coagulation and precipitation of proteins. The pectin adding step and the centrifuging step are conducted so as to obtain at least one of a persistent irreversible haze which remains at a first temperature and of a reversible haze which remains at a temperature below a second temperature and disappears at the first temperature. The persistent irreversible haze and the reversible haze each having respective predetermined characteristics in terms of intensity and persistence over time in the event of storage.

With regard to the rejection on indefiniteness grounds, the “objected to” terms have been deleted from the claims. Thus, the rejection has been mooted.

With regard to the rejection of claims 40, 41, and 43 – 63 on obviousness grounds, the rejection is defective for a variety of reasons. Most significantly, the Examiner has failed to show where New Glarus or Cock's Fine Brews teach or suggest the claimed method steps. The fact that New Glarus and Cock's Fine Brews are beverages with a fruit content does not mean that they were made using the method steps set forth in the claims. Absent a showing of the specific method steps employed to make the New Glarus or Cock's Fine Brews beverages, the rejection is fatally defective. The Line et al. patent does not cure the defects of the primary references. While Line et al. may show centrifuging to be known in the art, it does not show it to be done in the context of the claimed method. Nor does the Examiner offer any reason why one of ordinary skill in the art would be motivated to employ centrifuging in the unknown New Glarus and Cock's Fine Brew methods. At best, Line would show that centrifugation is used in preparing a pils type beer by removing the yeast by centrifugation (see Example 16) or by clarifying the wort by centrifugation (see Example 17). Without question, Line et al. teaches using centrifugation to obtain a clarified beer or liquid. Nothing in Line et al. discloses that the wort and the beer obtained could be a non-pils type beer. Further, with regard to New Glarus, it should be noted that the Apple Ales are all clear, bright, pils-type beers.

More specifically, with regard to the claims which depend from claim 40, the Examiner has not identified where any of the subject matters of these dependent claims can be found in any of the cited and applied references.

With regard to the rejection of claims 40 and 42 over Snakebite and Line et al., this rejection also fails because the Examiner has not identified the method steps employed to form the drink Snakebite. Still further, the Examiner has not indicated what, other than Applicants' claims, would motivate one to employ a centrifuging step in the unknown Snakebite method. As for the inherency argument presented by the Examiner, the argument fails for two reasons. First, the Examiner has not shown that, and has not provided any scientific reasoning why, the haze characteristics are inherently achieved by the addition of pectin. Second, the Examiner has not stated how Snakebite is produced.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Appl. No. 19/284,816
Amdt. dated Sept. 30, 2003
Reply to office action of April 2, 2003

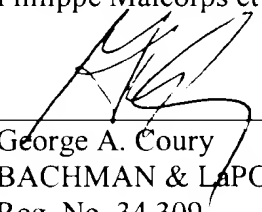
A notice of appeal and a three month extension of time request are appended hereto.
Also enclosed herewith is a check in the amount of \$1,250.00 to cover the cost of the notice of appeal and the three month extension of time request. Should the Commissioner determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Should the Examiner believe that an additional amendment is needed to place the case in condition for allowance, he is hereby invited to contact Applicant's Attorney at the telephone number listed below.

Respectfully submitted,

Philippe Malcorps et al.

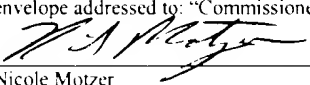
By


George A. Coury
BACHMAN & LAPOINTE, P.C.
Reg. No. 34,309
Attorney for Applicants

Telephone: (203)777-6628 ext. 112
Telefax : (203)865-0297

Date: September 30, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on **September 30, 2003**.


Nicole Motzer